

Exhibit 3
(Unsealed)
(Previously Filed Under Seal as Dkt. 487-2)

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

CASE NUMBER: 16-cv-1054 (WMW/DTS)

Fair Isaac Corporation, a Delaware corporation,
Plaintiff,
versus
Federal Insurance Company, and Indiana
corporation, and ACE American Insurance Company, a
Pennsylvania corporation,
Defendants.

VIDEOTAPED DEPOSITION OF EXPERT WITNESS

BILLY McCARTER



TAKEN: 5 June 2019

BY: Jackie McKone

<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES:</p> <p>2</p> <p>3 MERCHANT GOULD</p> <p>80 South Eighth Street, Suite 3200</p> <p>4 Minneapolis, Minnesota 55402</p> <p>PHONE: (612) 332-5300</p> <p>5 FAX: (612) 332-9081</p> <p>E-MAIL: hkliebenstein@merchantgould.com</p> <p>6</p> <p>BY: Heather Kliebenstein</p> <p>7 For the Plaintiff</p> <p>8</p> <p>9 FREDRIKSON BYRON</p> <p>200 South Sixth Street, Suite 4000</p> <p>10 Minneapolis, Minnesota 55402</p> <p>PHONE: (612) 492-7000</p> <p>11 FAX: (612) 492-7077</p> <p>E-MAIL: ljanus@fredlaw.com</p> <p>12</p> <p>BY: Leah Janus</p> <p>13 For the Defendants</p> <p>14</p> <p>15</p> <p>16 Also present:</p> <p>17 James Woodward, FICO</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22 Videographer: Dave Young, Paradigm</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 4</p> <p>1 P R O C E E D I N G S</p> <p>2 The following is the videotaped deposition</p> <p>3 of expert witness Billy McCarter, taken at</p> <p>4 Merchant Gould, 80 South Eighth Street in</p> <p>5 Minneapolis, Minnesota commencing at 9:05 a.m. on</p> <p>6 5 June 2019 pursuant to notice.</p> <p>7 * * *</p> <p>8 THE VIDEOGRAPHER: Good morning. We are</p> <p>9 going on the record at 9:05 a.m. on June 5th, 0</p> <p>10 2019.</p> <p>11 Please note the microphones are sensitive,</p> <p>12 might pick up whispering, private conversations,</p> <p>13 and cellular interference. Please turn off all</p> <p>14 cellphones and place them away from the</p> <p>15 microphones as they can interfere with the</p> <p>16 deposition audio.</p> <p>17 Audio and video recording will continue to</p> <p>18 take place unless all parties agree to go off the</p> <p>19 record.</p> <p>20 This is Media Unit 1 in the video recorded</p> <p>21 deposition of Billy McCarter taken in the matter</p> <p>22 of Fair Isaac Corporation versus Federal Insurance</p> <p>23 Company, et al. filed in the United States</p> <p>24 District Court, District of Minnesota, Case Number</p> <p>25 16 CV 1054.</p>
<p style="text-align: right;">Page 3</p> <p>1 I N D E X</p> <p>2</p> <p>3 Examination by Ms. Kliebenstein, Page 6</p> <p>4 Examination by Ms. Janus, Page 235</p> <p>5</p> <p>6 E X H I B I T S</p> <p>7</p> <p>8 Exhibit 444 McCarter expert report, Page 9</p> <p>9 Exhibit 445 InformationWeek article, Page 22</p> <p>10 Exhibit 446 Majesco article, Page 43</p> <p>11 Exhibit 447 Business Wire article, Page 45</p> <p>12 Exhibit 448 InformationWeek article, Page 52</p> <p>13 Exhibit 449 Harvard Business article, Page 96</p> <p>14 Exhibit 450 Chubb 2018 annual report, Page 105</p> <p>15 Exhibit 451 Ivey deposition transcript, Pg 128</p> <p>16 Exhibit 452 PowerPoint, Page 145</p> <p>17 FED 000122_0001-0029</p> <p>18 Exhibit 453 PowerPoint, Page 164</p> <p>19 FED 000171_0001-0028</p> <p>20 Exhibit 454 Rules document, Page 182</p> <p>21 FED 017914_0001</p> <p>22</p> <p>23 PREVIOUSLY MARKED EXHIBIT</p> <p>24 Exhibit 143 Chubb RFI processing rules, Pg 87</p> <p>25 FICO 0057280-0057304</p>	<p style="text-align: right;">Page 5</p> <p>1 This deposition is being held at the law</p> <p>2 offices of Merchant and Gould located in</p> <p>3 Minneapolis, Minnesota. My name is Dave Young. I</p> <p>4 am representing Veritext Legal Solutions. I'm the</p> <p>5 videographer. The court reporter is Jackie</p> <p>6 McKone, also representing Veritext Legal</p> <p>7 Solutions. I am not related to any party in this</p> <p>8 action nor am I financially interested in the</p> <p>9 outcome.</p> <p>10 Counsel who are now present in the room</p> <p>11 will announce state their appearances and</p> <p>12 affiliations for the record. If there are any</p> <p>13 objections to this proceeding, please state them</p> <p>14 at the time of your appearance beginning with the</p> <p>15 noticing attorney.</p> <p>16 MS. KLIEBENSTEIN: Heather Kliebenstein for</p> <p>17 the plaintiff Fair Isaac from Merchant and Gould.</p> <p>18 MS. JANUS: Leah Janus, Fredrikson and</p> <p>19 Byron, for defendants.</p> <p>20 THE VIDEOGRAPHER: And will the court</p> <p>21 reporter please swear in the witness, and then we</p> <p>22 can proceed.</p> <p>23 * * *</p> <p>24 BILLY McCARTER</p> <p>25 after having been duly sworn deposes and says</p>

<p style="text-align: right;">Page 134</p> <p>1 A. It's -- it's my experience in the insurance 2 industry I've worked with many insurance companies 3 over the years. They all measure combined ratio 4 pretty much the same way. 5 Q. Did you confirm that Federal calculates combined 6 ratio the same way? 7 A. Based on this definition, yes. 8 Q. How did you confirm that Federal calculates 9 combined ratio the same way? 10 A. I asked during the calls -- one of the calls. 11 Q. You don't recall which one? 12 THE WITNESS: Yup? 13 MS. JANUS: Can we table that and talk 14 about it at our next break just so I can 15 understand what's going on? Or do you want us to 16 -- can we take a moment to talk now if you want to 17 continue? 18 BY MS. KLIEBENSTEIN: 19 Q. Are you concerned that answering the question will 20 -- will review -- will reveal attorney-client 21 privilege? 22 A. It's privileged. Yes. 23 Q. So the phone call involved -- did not involve a 24 Federal employee, it was a call with just lawyers? 25 A. It did -- it did involve Federal employee.</p>	<p style="text-align: right;">Page 136</p> <p>1 questions. 2 BY MS. KLIEBENSTEIN: 3 Q. So is the concept of combined ratio just a 4 different way to present profitability? 5 A. It's the way the insurance company requires you to 6 report profitability. 7 Q. And so -- 8 A. On an indirect basis. 9 Q. -- anything under 100 percent reflects a profit, 10 and anything over a hundred percent reflects a 11 loss? 12 A. Loss. Correct. 13 Q. And at Federal, do you know if this combined ratio 14 includes all gross written premium dollars and all 15 company expenses? 16 A. It would include earned premium dollars. 17 Q. And what expenses? 18 A. It would include loss expenses as well as internal 19 and external expense. 20 Q. And what are internal expenses? 21 A. People, buildings, equipment. Things like that. 22 Q. What's an external expense? 23 A. Commission, premium tax to the government. Stuff 24 that they have to pay to do business. 25 Q. And did you confirm that those are -- those</p>
<p style="text-align: right;">Page 135</p> <p>1 MS. KLIEBENSTEIN: Then I -- 2 MS. JANUS: I need to have a conversation 3 with him to just understand what the situation -- 4 it's fine, you don't need to say anything more 5 about it, but I think we just need to have a short 6 conversation. We can do that now Heather, or we 7 can do it at our next break. It's up to you. 8 BY MS. KLIEBENSTEIN: 9 Q. So the question was: Do you remember which call? 10 A. Yes. 11 Q. And who was in attendance on that call? 12 A. External counsel. 13 Q. Um-hm. 14 A. Internal counsel. 15 Q. So was it -- was it Mr. Murphy that provided you 16 with this factual information? 17 MS. JANUS: Let's table that for now. I'm 18 going to object to that, and I've -- I've asked 19 now several times. I'd like to be able to have a 20 conversation with the witness to assess the 21 privilege situation and then be able to form a 22 final conclusion on whether there's privilege. I 23 just can't do it sitting here right now without 24 having an opportunity to talk with him. 25 MS. KLIEBENSTEIN: I'll just keep asking</p>	<p style="text-align: right;">Page 137</p> <p>1 expenses are included in the Federal combined 2 ratio expenses? 3 A. Yes. By looking at their annual report. 4 Q. Looking at 41 -- 5 A. Um-hm. 6 Q. -- what's the basis for your opinion in 41? 7 A. My experience in the insurance industry as a 8 senior executive at Allianz. 9 Q. The last sentence says, "Federal improves its 10 combined ratio by adjusting premium rates and 11 reducing expenses." Did you confirm that 12 statement with anyone at Federal? 13 A. I saw evidence of that in a lot of documents that 14 I read. I don't remember specifically asking that 15 question directly. 16 Q. Did you identify -- can you remember which 17 documents you saw that in? 18 A. Rates and rules. I'd have to -- I don't -- I 19 don't know. I'd have to look at the case 20 documents again. 21 Q. Can you explain to me how reducing expenses 22 improves a combined ratio? 23 A. Less money paid out. 24 Q. Could you flush that out a little bit more for the 25 record? Less money paid out what?</p>

<p style="text-align: right;">Page 138</p> <p>1 A. For claims or external expenses or internal 2 expenses. So reducing the expense improves the 3 profitability of the business. 4 Q. In Paragraph 43, you state, "FICO and the software 5 Blaze has no involvement," -- "involvement in the 6 development and implementation of Federal's growth 7 strategies." What is your support for that 8 statement? 9 A. I looked at the annual report, the growth 10 strategies, and it talks about their focus on 11 markets their focus on products. It doesn't 12 highlight that -- that FICO provided any input 13 into that, or Blaze provided any input to those 14 growth strategies, and I think in a -- a 15 conversation I confirmed that, that FICO wasn't 16 consulted on for the growth strategies. 17 Q. You would agree with me though that in the 2018 18 annual report we just looked at technology was 19 featured as a growth strategy; correct? 20 A. Technology. It didn't say Blaze. There's a lot 21 of technologies at Federal, significant amount. 22 Q. Looking at -- moving into Paragraph 44, 44 through 23 50 -- 24 A. Um-hm. 25 Q. -- what is your support for Paragraphs 44 through</p>	<p style="text-align: right;">Page 140</p> <p>1 recall a conversation on product. No. I can't 2 say that I spoke to a product manager, and on 3 compliance, I did speak with compliance folks. 4 That was part of my conversation with Ellen and 5 Helen. 6 Q. So you spoke to underwriters, and you spoke to 7 some compliance managers? 8 A. Correct. 9 Q. Did they provide you with the content for 10 Paragraphs 47 through 49? 11 A. They -- they confirmed what I wrote in a 12 conversation. 13 Q. So the actuaries at Federal -- do you know how 14 many actuaries Federal employs? 15 A. I do not know the number. 16 Q. So you don't know what percentage of the 35,000 17 people are actuaries? 18 A. I do not know that number. 19 Q. For each of these groups, product managers, 20 underwriters, compliance managers, claims 21 managers, do you know the relative percentage of 22 employees of those 35,000 people that those groups 23 of employees are? 24 A. I do not. 25 Q. Do you know how many Federal employees fall</p>
<p style="text-align: right;">Page 139</p> <p>1 50? 2 A. It's my expertise in the insurance marketplace. 3 Q. And Paragraph 45 you discuss actuaries? 4 A. Um-hm. 5 Q. Did you confirm with anyone at Federal that these 6 statements apply -- these statements in Paragraph 7 45 apply to actuaries at Federal? 8 A. I did not speak to a Federal actuary, but in order 9 for them to conduct business in this market, they 10 have to have actuaries that do these 11 functionalities. 12 Q. And the same question for -- I'll try to group 13 this all together. The same question for product 14 managers starting on Paragraph 46, underwriters, 15 compliance managers, and claims managers, you 16 provide several opinions about what each of those 17 groups of people do. 18 Did you confirm with anyone at Federal that 19 at Federal these groups of employees perform the 20 functions set forth in your report? 21 A. So on underwriters, yes. I didn't on claims 22 because it's not used in claims, it's used by 23 actuaries based on the latest information, and 24 product managers I didn't -- let me -- let me look 25 at the team to make sure. I kind of vaguely</p>	<p style="text-align: right;">Page 141</p> <p>1 outside of those categories? 2 A. I do not. 3 Q. Taking the actuaries, do any of the -- based on 4 your experience, do any of the -- the functions 5 that actuaries perform does that impact revenue in 6 any way at an insurance company? 7 A. Yes. 8 Q. In what way? 9 A. Actuaries determine the price that you're going to 10 pay for a coverage. 11 Q. So how does that impact -- how could that 12 potentially impact revenue? 13 A. If they set the price correctly, then they will 14 get revenue. If they set the price incorrectly, 15 they may lose revenue, or have losses. 16 Q. Moving to product managers, taking the job duties 17 of product managers, based on your experience, how 18 do product managers impact revenue? 19 A. They develop new products or adjust existing 20 products to reflect the market conditions and 21 needs. 22 Q. And how does that function impact revenue? 23 A. They can grow revenue from product -- new product 24 introduction, or they can adjust revenue on 25 existing products based on new features and</p>

<p style="text-align: right;">Page 154</p> <p>1 A. In the -- absolutely.</p> <p>2 Q. What does it mean in the insurance context?</p> <p>3 A. To me, it's the ability to dynamically change</p> <p>4 things quickly, be able to be agile to move when</p> <p>5 the market moves.</p> <p>6 Q. And what's -- what's the benefit of improving</p> <p>7 agility, the business benefit of improving agility</p> <p>8 in the insurance field?</p> <p>9 A. To provide what the customer is looking for.</p> <p>10 Q. Whether it's a -- whether that's a new product, or</p> <p>11 a different price; is that right?</p> <p>12 A. Or different coverage.</p> <p>13 Q. And the point is to increase revenue; correct?</p> <p>14 A. Every business is looking to increase revenue.</p> <p>15 Q. So the answer is yes; the point of improving</p> <p>16 agility in the insurance context is to improve</p> <p>17 revenue?</p> <p>18 A. Not always, but if I make a quick move, I might</p> <p>19 lose money and lose revenue. So I don't want to</p> <p>20 -- I can't -- I would not say agility always</p> <p>21 contributes to revenue. It may not.</p> <p>22 Q. Oh. That -- that wasn't my question. A goal of</p> <p>23 improving agility in the insurance question -- in</p> <p>24 the insurance industry is to -- let me ask it a</p> <p>25 different way.</p>	<p style="text-align: right;">Page 156</p> <p>1 was: Being able to make changes quickly can that</p> <p>2 lead to increased revenue in the insurance field?</p> <p>3 MS. JANUS: Same objections.</p> <p>4 THE WITNESS: I would say that any change</p> <p>5 made has the potential to affect it or not affect</p> <p>6 it. I mean, it just depends on the rule that's</p> <p>7 changing and what it's changing to.</p> <p>8 BY MS. KLIEBENSTEIN:</p> <p>9 Q. Why would an insurance company want the ability to</p> <p>10 make changes quickly in the insurance context?</p> <p>11 A. Because the -- for competitive reasons, for market</p> <p>12 reasons, their -- experience losses, not</p> <p>13 necessarily a top line issue but bottom line</p> <p>14 issue.</p> <p>15 Q. In your answer, you mentioned an insurance company</p> <p>16 would want the ability to make changes quickly for</p> <p>17 competitive reasons.</p> <p>18 A. Um-hm.</p> <p>19 Q. Give me an example.</p> <p>20 A. Somebody introduced a new product and you want to</p> <p>21 get your product to market to compete.</p> <p>22 Q. To write more policies and get more gross written</p> <p>23 premium; correct?</p> <p>24 MS. JANUS: Object to the form of the</p> <p>25 question.</p>
<p style="text-align: right;">Page 155</p> <p>1 At least one goal from improving agility in</p> <p>2 the insurance context is to increase revenues;</p> <p>3 correct?</p> <p>4 A. That's a goal.</p> <p>5 Q. So the answer is yes; at least one goal?</p> <p>6 A. A goal of -- of anything you do is to increase</p> <p>7 revenue, but ...</p> <p>8 Q. And the second bullet, make changes quickly</p> <p>9 without programming, do you know what -- what</p> <p>10 capability that refers to in the insurance</p> <p>11 context?</p> <p>12 A. Yeah. It's -- it's the reason that Federal</p> <p>13 acquired Blaze was to move the rules from the IT</p> <p>14 programmers to externalize rules.</p> <p>15 Q. And what is the business benefit from doing that?</p> <p>16 A. Faster changes to the rules.</p> <p>17 Q. And can faster changes to the rules lead to</p> <p>18 increased revenue?</p> <p>19 MS. JANUS: Object to the form of the</p> <p>20 question. Calls for hypothetical. Calls for</p> <p>21 speculation. It's vague.</p> <p>22 THE WITNESS: Depends on how the rule</p> <p>23 changes.</p> <p>24 BY MS. KLIEBENSTEIN:</p> <p>25 Q. Right. My question was not does it. My question</p>	<p style="text-align: right;">Page 157</p> <p>1 THE WITNESS: Every business wants to grow</p> <p>2 its -- grow its revenue and improve its profit.</p> <p>3 Every business.</p> <p>4 BY MS. KLIEBENSTEIN:</p> <p>5 Q. I'm not -- that's sort of an answer to my question</p> <p>6 but not really. So the question was: You want to</p> <p>7 get your product to market more quickly so that</p> <p>8 you can hopefully, don't know for sure, hopefully</p> <p>9 write more policies and get more premiums?</p> <p>10 A. All of the technology and resources of an</p> <p>11 insurance company are focused on trying to sell</p> <p>12 more policies and reduce the amount of losses,</p> <p>13 claims that they -- they have.</p> <p>14 So I don't look at the technology in</p> <p>15 isolation. I look at it in -- collectively, all</p> <p>16 of the people, process, and technology that are</p> <p>17 out there.</p> <p>18 Changing a rule might require changes in</p> <p>19 other parts of the business at the same time, and</p> <p>20 if those changes weren't made, it would have a</p> <p>21 negative effect on the business, not a positive</p> <p>22 effect on the business.</p> <p>23 So trying to take this in isolation is a</p> <p>24 no, but take it collectively with all of the</p> <p>25 technology, and people, and process that are</p>

<p style="text-align: right;">Page 158</p> <p>1 running the business, the answer is yes.</p> <p>2 Q. And moving to the next bullet, integrate models to</p> <p>3 accurately segment customers, do you understand</p> <p>4 what that means in the insurance context?</p> <p>5 A. In the insurance context you want to segment your</p> <p>6 customer base, but that's the rules of the</p> <p>7 company, not the capability of the technology.</p> <p>8 Q. The last bullet, give business units -- users</p> <p>9 control, is that any different that the -- in the</p> <p>10 second bullet?</p> <p>11 A. It's the inverse; right?</p> <p>12 Q. Um-hm.</p> <p>13 MS. JANUS: Do you want to take a break?</p> <p>14 THE WITNESS: Yeah. If I could take a</p> <p>15 break real quick.</p> <p>16 MS. KLIEBENSTEIN: Sure.</p> <p>17 THE VIDEOGRAPHER: We are going off the</p> <p>18 record. The time now is 2:25.</p> <p>19 (Whereupon a short break was taken from</p> <p>20 2:25 p.m. to 2:38 p.m.)</p> <p>21 THE VIDEOGRAPHER: We are back on the</p> <p>22 record. This is the beginning of Media Number 4.</p> <p>23 The time is 2:37.</p> <p>24 BY MS. KLIEBENSTEIN:</p> <p>25 Q. Top of Page 14 of your report.</p>	<p style="text-align: right;">Page 160</p> <p>1 prompted by the conversation I had with Ellen and</p> <p>2 Helen that said they didn't even know that -- that</p> <p>3 Blaze was part of the system that they use on a</p> <p>4 day-to-day business -- or day-to-day.</p> <p>5 Q. And in the next paragraph, it ends with, "Blaze is</p> <p>6 a technology that indirectly supports a small</p> <p>7 number of over 35,000," --</p> <p>8 A. Um-hm.</p> <p>9 Q. "Federal employees." Do you know what -- what the</p> <p>10 percentage is of employees that interact with</p> <p>11 Blaze?</p> <p>12 A. I don't -- I don't have a percentage, but</p> <p>13 certainly could figure that out quickly.</p> <p>14 Q. And how would you go about doing that?</p> <p>15 A. Get -- get a count of the number of people</p> <p>16 involved in the -- the applications that are used</p> <p>17 by CSI Express, or -- which is the 80 percent of</p> <p>18 the usage of Blaze I think. Based on what I read.</p> <p>19 Q. Looking at the diagram on the top of Page 15 --</p> <p>20 A. Um-hm.</p> <p>21 Q. -- where does that diagram come from?</p> <p>22 A. It's the ID and property casualty business</p> <p>23 activity model, and I thought I cited it</p> <p>24 somewhere. I did cite it. It's on the previous</p> <p>25 page.</p>
<p style="text-align: right;">Page 159</p> <p>1 A. Um-hm.</p> <p>2 Q. You state that, "Blaze is not visible to</p> <p>3 operational employees of Federal and not visible</p> <p>4 to agents and brokers that interact with Federal</p> <p>5 employees."</p> <p>6 A. Correct.</p> <p>7 Q. How is that statement -- how is that statement</p> <p>8 relevant to the scope of your assignment in this</p> <p>9 case?</p> <p>10 A. How it's used in the -- the business operation. I</p> <p>11 looked at the -- at the screens that were the UI</p> <p>12 that supported the applications that are involved</p> <p>13 here, and the -- the customers, the policyholders,</p> <p>14 the agents don't know that rules engine set behind</p> <p>15 there. They don't know that.</p> <p>16 So it's just in normal course of business</p> <p>17 they are using the policy, the various AD-MIN</p> <p>18 systems that -- that Federal provides them, and</p> <p>19 the rules engines sets behind there.</p> <p>20 Q. And let's just accept that as true for now.</p> <p>21 A. Um-hm.</p> <p>22 Q. How does that fact play into the value of Blaze</p> <p>23 Advisor with respect to the revenues and profits</p> <p>24 of Federal?</p> <p>25 A. Basically Blaze is invisible, and this was</p>	<p style="text-align: right;">Page 161</p> <p>1 Q. So this is not a diagram of Federal specifically?</p> <p>2 A. No. It's -- correct. It's an industry model for</p> <p>3 a property and casualty insurance company.</p> <p>4 Q. And did you -- is it your opinion that this model</p> <p>5 applies to Federal?</p> <p>6 A. Yes.</p> <p>7 Q. And how -- how did you arrive at that opinion?</p> <p>8 A. Based on my experience. I was CIO for a global</p> <p>9 property and casualty company.</p> <p>10 Q. Paragraphs 55, 56, and 57.</p> <p>11 A. Um-hm.</p> <p>12 Q. What is your support for the opinions in those</p> <p>13 paragraphs?</p> <p>14 A. Make sure real quick. This is based on my use of</p> <p>15 the industry model for developing strategy to</p> <p>16 support the business.</p> <p>17 Q. So the -- the opinions in Paragraph 56 stem from</p> <p>18 the IBM model?</p> <p>19 A. Correct.</p> <p>20 Q. So you counted nine major business activities in</p> <p>21 the IBM model?</p> <p>22 A. Major, major categories. Yeah. Business activity</p> <p>23 categories.</p> <p>24 Q. And 59 activity groups?</p> <p>25 A. Correct.</p>

<p style="text-align: right;">Page 162</p> <p>1 Q. And claims management specifically has 11 activity 2 groups? 3 A. Yeah. As an example. 4 Q. Claims management, and that was counted, again, 5 from the IBM model? 6 A. Correct. 7 Q. And Paragraph 57 has a number of subheadings under 8 each enumerated group. Did those subheadings also 9 come from the IBM activity model? 10 A. They did. 11 Q. And in Paragraph 58, you opine that, "Each work 12 item within an activity group is associated with 13 business rules and decisions that are being made 14 by employees within the Federal business 15 operation." Correct? 16 A. Correct. 17 Q. And what is the support for that opinion? 18 A. Again, the activity model illustrates a property 19 and casualty company and what they have to do on a 20 daily basis to operate, and based on my 21 experience, Federal does all of these activities 22 and work items associated with those activity 23 groups. 24 Q. Did you confirm with anyone at Federal that they 25 do in fact do all of these work items and</p>	<p style="text-align: right;">Page 164</p> <p>1 identification as Exhibit 453.) 2 BY MS. KLIEBENSTEIN: 3 Q. I'm handing you what's been marked as Exhibit 453. 4 Is this the document you were just referring to? 5 A. I believe so. Let me look at the page and I'll 6 tell you for sure. Yes. 7 Q. So tell me what I'm looking at in Slide 11. 8 A. Slide 11 is FICO's interpretation of where Blaze 9 touches the insurance process, business processes. 10 Q. And do you agree or disagree with FICO's 11 interpretation? 12 A. The way they have categorized things I kind of 13 disagree because it's too broad and generic in 14 some cases. 15 For example, underwriting. It doesn't 16 touch every piece of underwriting. So therefore 17 it's -- it's overstating what it does in 18 underwriting, but in the other areas, like product 19 definition, they call that out three times, three 20 different areas, rate maintenance, and where Chubb 21 -- Federal is using it in product management 22 mostly in rate development and maintenance. So 23 things like that. 24 Q. You mentioned rate maintenance. Where can I find 25 that on Slide 11?</p>
<p style="text-align: right;">Page 163</p> <p>1 activities? 2 A. No I did not. I did not. 3 Q. And did you confirm with anyone from Federal that 4 in fact each work item within an activity group is 5 associated with business rules and decisions made 6 by employees within the Federal business 7 operation? 8 A. No. 9 Q. Can you tell me what the red dots are? 10 A. Yeah. They are my interpretation of where Blaze 11 is touching those categories. 12 Q. And did you confirm with anyone at Federal that 13 your interpretation was correct? 14 A. Yes, and we compared it to the FICO chart, and 15 there are different charts. So there was 16 questions about whether they applied, but in my 17 opinion, this is where they applied in this model. 18 Q. What's the FICO chart? 19 A. FICO provided a chart that shows where Blaze 20 touches an insurance process. It's a very generic 21 chart as well. 22 Q. Can you identify that document in your report? 23 A. I did. Give me a moment. I don't remember what 24 the number was. Oh. It's 17111. 25 (Whereupon material was marked for</p>	<p style="text-align: right;">Page 165</p> <p>1 A. It's not -- it's not on Slide 11. You know, I 2 guess they include it under Number 5, which is 3 pricing and rating, but that's over -- again, 4 overstating where it actually touches this from a 5 Federal point of view (indicating). 6 Q. And your position is that it -- Blaze only touches 7 rate maintenance; is that right? 8 A. Rate development and maintenance as part of 9 product management. Yeah. 10 Q. So in your report, you went through and identified 11 -- you took that information from Slide 11 and 12 then tried to fit it in where it would fit within 13 the IBM model? 14 A. No. I -- I took the applications and the 15 functions, the applications we're using, and I 16 overlaid that onto this model. 17 Q. Okay. 18 A. Which is different than what FICO shows in Slide 19 11. Because they also show it's claims 20 adjudication, and it's not being used for claims 21 adjudication within Federal. 22 At the bottom of that chart, on Page 11, it 23 shows utility functions as opposed to work groups 24 in the -- or categories in the business activity 25 model. So ... it's not a one-to-one correlation.</p>

<p style="text-align: right;">Page 178</p> <p>1 Q. You're specifically referring to TAPS; correct?</p> <p>2 A. I am. I am.</p> <p>3 Q. Do you know how many -- and TAPS stands for what</p> <p>4 again?</p> <p>5 A. Texas Accident Prevention. It's a workers' comp</p> <p>6 compliance requirement for the state of Texas.</p> <p>7 Q. And so some insurance applications need to comply</p> <p>8 with TAPS in Texas; correct?</p> <p>9 A. Correct.</p> <p>10 Q. Do you know how many insurance policies that</p> <p>11 affects every year?</p> <p>12 A. No I do not.</p> <p>13 Q. Did you ask anybody?</p> <p>14 A. It doesn't matter whether it's one or many, but</p> <p>15 no, I did not.</p> <p>16 Q. So why do you say that the -- is it your opinion</p> <p>17 that the features, functionality provided by Blaze</p> <p>18 within the TAPS application could be done with an</p> <p>19 Excel spreadsheet; correct?</p> <p>20 A. That's what I was told. Yes.</p> <p>21 Q. That's what you were told by whom?</p> <p>22 A. Helen and Ellen.</p> <p>23 Q. And did you do anything to independently verify</p> <p>24 that that statement was true?</p> <p>25 A. I looked at the descriptions of all the use of</p>	<p style="text-align: right;">Page 180</p> <p>1 A. I don't recall the exact number, but they said a</p> <p>2 small number of people could have done this.</p> <p>3 Q. How many is a small number of people?</p> <p>4 A. I don't know. I didn't ask.</p> <p>5 Q. Over how many years? Do you know?</p> <p>6 A. No.</p> <p>7 Q. You don't know how many policies it involved;</p> <p>8 correct?</p> <p>9 A. Other than it was a low volume business. Workers'</p> <p>10 comp in Texas is poor -- is probably a very low</p> <p>11 volume business.</p> <p>12 Q. Chubb is one of the largest insurance companies in</p> <p>13 the world; correct?</p> <p>14 A. Um-hm.</p> <p>15 Q. They are one of the largest suppliers of business</p> <p>16 insurance in the United States; correct?</p> <p>17 A. Right.</p> <p>18 Q. So a low volume of business to Chubb could be --</p> <p>19 strike that. So you don't have an opinion one way</p> <p>20 or the other as to the cost or expense Chubb would</p> <p>21 have incurred to use an Excel spreadsheet instead</p> <p>22 of Blaze Advisor in the TAPS application --</p> <p>23 A. I do not.</p> <p>24 Q. And you don't -- you have not undertaken an</p> <p>25 analysis to determine whether the use of a</p>
<p style="text-align: right;">Page 179</p> <p>1 TAPS within the depositions and documents that I</p> <p>2 had, and it would confirm that it's a disclosure</p> <p>3 type of check the box function that we disclose</p> <p>4 properly as part of the process. So that's my</p> <p>5 only verification.</p> <p>6 Q. And how would you use an Excel spreadsheet instead</p> <p>7 of Blaze to accomplish the same functionality?</p> <p>8 A. I have an individual pull up the spreadsheet, go</p> <p>9 through the list of applications, and see if it</p> <p>10 complied.</p> <p>11 Q. But you don't know how many applications that</p> <p>12 individual would have to look through?</p> <p>13 A. And according to Ellen, it's a low volume</p> <p>14 business. So I didn't ask how many policies. Low</p> <p>15 volume usually means low, not many, and they said</p> <p>16 that Blaze was used because it was there. It --</p> <p>17 you know, it wasn't -- not Helen and Ellen didn't</p> <p>18 say that because they didn't know Blaze existed.</p> <p>19 Ramesh Pandey basically said they could have</p> <p>20 easily used Excel as well.</p> <p>21 Q. Do you know how many people would need to be</p> <p>22 employed to undertake the same tasks as Blaze</p> <p>23 Advisor with respect to the TAPS application to</p> <p>24 perform the same functions using Excel</p> <p>25 spreadsheet?</p>	<p style="text-align: right;">Page 181</p> <p>1 spreadsheet in the TAPS application instead of</p> <p>2 Blaze Advisor would yield the same results;</p> <p>3 correct?</p> <p>4 A. I -- I'm going by the word, the folks I spoke</p> <p>5 with, that they could use it that way.</p> <p>6 Q. Do you know what percent of Federal's business</p> <p>7 rules were ever implemented into Blaze Advisor?</p> <p>8 A. I couldn't get a count. So no I do not.</p> <p>9 Q. What was your methodology then to determine in</p> <p>10 Paragraph 69 to make the statement, "Only a</p> <p>11 fraction of Federal's business rules and decisions</p> <p>12 were ever loaded into Blaze Advisor," -- "Blaze to</p> <p>13 assist Federal."?</p> <p>14 A. There's hundreds of thousands of rules that are</p> <p>15 executed on a daily basis as part of this business</p> <p>16 activity model, and if you look at the numbers of</p> <p>17 rules that are loaded -- that are on that Fed</p> <p>18 17914, it's a small amount compared to the total</p> <p>19 rules that are being made on a daily basis.</p> <p>20 Q. Do you know how many -- how many rules decisions</p> <p>21 are being made at Federal on a daily basis?</p> <p>22 A. I do not.</p> <p>23 Q. Did you ask anyone?</p> <p>24 A. I asked for total rules relative to plays, but I</p> <p>25 didn't ask them for the total rules across all of</p>

<p style="text-align: right;">Page 182</p> <p>1 their business model. No.</p> <p>2 Q. So you -- you asked to receive information on the</p> <p>3 total rules relative to Blaze?</p> <p>4 A. Um-hm.</p> <p>5 Q. And what was the answer you received?</p> <p>6 A. It's in Schedule 17914 I believe, the list of</p> <p>7 rules that are associated with those applications.</p> <p>8 Q. Oh. Those are the -- I'll get it for you.</p> <p>9 A. I think it's on my chart.</p> <p>10 (Whereupon material was marked for</p> <p>11 identification as Exhibit 454.)</p> <p>12 BY MS. KLIEBENSTEIN:</p> <p>13 Q. I'm handing you what's been marked as Exhibit 454.</p> <p>14 A. Complexity of number of rules.</p> <p>15 Q. Is this a document you're referring to?</p> <p>16 A. It is.</p> <p>17 Q. Did you ask to receive information about the total</p> <p>18 number of rules being made at Federal companywide?</p> <p>19 A. In one of the discussions, was there a way to</p> <p>20 count the total number of rules, and couldn't get</p> <p>21 that number, but they could -- because of Blaze,</p> <p>22 they were able to count what rules were in Blaze.</p> <p>23 Q. So you don't have any documentary support for your</p> <p>24 opinion that only a fraction of Federal's business</p> <p>25 rules and decisions were ever loaded into Blaze;</p>	<p style="text-align: right;">Page 184</p> <p>1 A. Um-hm.</p> <p>2 Q. -- is that an accurate summary?</p> <p>3 A. That's correct.</p> <p>4 Q. And you gave a hundred policy volume is a high</p> <p>5 average premium; right?</p> <p>6 A. Right.</p> <p>7 Q. Do you know how many policies Federal writes in</p> <p>8 any year?</p> <p>9 A. No. I don't have the exact number.</p> <p>10 Q. It's in significant excess of a hundred policy in</p> <p>11 any given year; correct?</p> <p>12 A. Yes. It's way more than a hundred.</p> <p>13 Q. Moving to Paragraph 74, again, as we discussed</p> <p>14 earlier --</p> <p>15 A. Yeah.</p> <p>16 Q. -- you conclude -- your opinion in 74 is that</p> <p>17 based on your experience and not documentary</p> <p>18 support from Federal?</p> <p>19 A. Well, it's a small role, and if you look at the</p> <p>20 ecosystem and the amount of technology that's</p> <p>21 used, I have documentation on how many</p> <p>22 applications and components, third party</p> <p>23 components they use, and Blaze is a small part of</p> <p>24 that overall business process and ecosystem. So I</p> <p>25 do have documents from -- from Federal on that.</p>
<p style="text-align: right;">Page 183</p> <p>1 right?</p> <p>2 A. It's in my experience, based on my experience of</p> <p>3 operating all these systems for an insurance</p> <p>4 company.</p> <p>5 Q. So continuing on to Page 20, the statement that,</p> <p>6 "Blaze's use is relatively small based on my</p> <p>7 experience with seven insurance companies in North</p> <p>8 America," --</p> <p>9 A. Um-hm.</p> <p>10 Q. -- that opinion is based on your experience and</p> <p>11 not any data from Federal; right?</p> <p>12 A. Correct.</p> <p>13 Q. Paragraph 70 through 73 --</p> <p>14 A. Um-hm.</p> <p>15 Q. -- is your support for those paragraphs solely</p> <p>16 your experience?</p> <p>17 A. No. In 70, if we look at the Gartner article on</p> <p>18 innovation technology insight basically defining</p> <p>19 the business rules management system, and then</p> <p>20 part of that is my own experience working with</p> <p>21 Ratabase and other policy systems that had</p> <p>22 components for rules management.</p> <p>23 Q. In Paragraph 73, you provide an example of where</p> <p>24 you did not think a business rules engine should</p> <p>25 have been employed --</p>	<p style="text-align: right;">Page 185</p> <p>1 Q. Are you referring to -- jumping over to Paragraph</p> <p>2 87.</p> <p>3 A. Um-hm.</p> <p>4 Q. Were you referring to your opinion that Federal</p> <p>5 has approximately 1500 applications?</p> <p>6 A. Correct.</p> <p>7 Q. How did you arrive at that opinion that Federal</p> <p>8 that 1500 applications?</p> <p>9 A. Claudio Ghislanzoni communicated that to me in an</p> <p>10 interview, and it supports the total number of</p> <p>11 systems, which is found in Fed 6248.</p> <p>12 MS. JANUS: Just speak up when you need a</p> <p>13 break.</p> <p>14 THE WITNESS: Okay.</p> <p>15 BY MS. KLIEBENSTEIN:</p> <p>16 Q. One clarification on Paragraph 117. So we were</p> <p>17 just referring to 1500 different applications.</p> <p>18 A. Yeah.</p> <p>19 Q. It mentions 10 out of 107 proprietary insurance --</p> <p>20 A. Yeah. That -- that should have been 1500. I</p> <p>21 picked up the wrong number.</p> <p>22 Q. Okay.</p> <p>23 A. Should have been 1500.</p> <p>24 Q. Did you look at any documents to confirm Federal</p> <p>25 has approximately 1500 applications?</p>